UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/456,997	12/07/1999	TSUNEHIRO TSUKADA	35.C14095	7183

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EXAMINER
NGUYEN, THU HA T

ART UNIT	PAPER NUMBER
2155	

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Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	09/456,997	TSUKADA, TSUNEHIRO
	Examiner	Art Unit	
	Thu Ha T. Nguyen	2155	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>04 November 2005</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-10* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-10* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

1.   Claims **1-10** are presented for examination.

2.   Claims 1, 4, 5, 8, 9, and 10 are amended.

Continued Examination Under 37 CFR 1.114

3.   A request for continued examination under 37 CFR 1.114, including the

fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since

this application is eligible for continued examination under 37 CFR 1.114, and the fee

set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office

action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on

November 04, 2005 has been entered.

Claim Objections

4 .   Claim 8 is objected to because of the following informalities: Claim 8

recited the limitation "said issuing means", page 5, line 14. There is insufficient

antecedent basis for this limitation in this claim. Appropriate correction is required.

Response to Arguments

5.   Applicant's arguments filed December 20, 2004 have been fully

considered but they are not persuasive because of the following reasons:

6.   Applicant argues that Barrett does not teach or suggest predicting an end

time for generation of requested data if the generation thereof is in progress and

transmitting the predicted end time and information for requesting data loading again at

the predicted end time to the terminal. In response to applicant's argument, examiner

asserts that Barrett does teach a server transmitting the requested data to the terminal if generation of the requested data has completed, and if the data generation is in progress, predicting an end time for generation of requested data and transmitting the prediction to the terminal as shown in abstract, col. 4, lines 5-12, col. 5, lines 4-34, col. 6, lines 1-67, col. 7, lines 44-65, col. 9, lines 8-24. [When client/browser requests web page from Internet, the client (browser) receives/downloads and displays a web page from Internet (remote server), if the downloading of the presently displayed web page is completed. The remote server estimates the downloading time of the requested web page and displays as color indication to indicate the data is in progress of downloading at client device. The server sends an estimate of download time indicia to client along with user-selectable link so that the client know how long it will takes to down load a page and if client wishes to continue request a page then click/or select a user-selectable link.

7.   Applicant argues that because the references relied upon teach that all aspects of the claimed invention were individually know in the art is not sufficient to establish a prima facie case of obviousness without some objective reason to combine the teaches of the references. In response to applicant's argument, the examiner submits that the prior art element performs the identical function specified in the claim in substantially the same way, and produces substantially the same results as the corresponding element disclosed in the specification (see MPEP 2183).

8.   Applicant argues that Barrett does not teach or suggest the feature of receiving from the server in response to the request either requested data or a predicted

end time for generation of the requested data together with information for re-issuing the

request for data loading at the predicted end time and reissuing the request for data

loading to the server when the predicted en time is reached.

Before addressing the applicant's argument, the examiner submits that since the

applicant using the phrase "receiving from the server in response to the request either

requested data or a predicted end time for generation of the requested data together

with information for re-issuing the request for data loading at the predicted end time",

the examiner has given a broad interpretation "receiving from the server in response to

the request for requested data". Therefore, the examiner concludes that Barrett does

teach the feature of receiving from the server in response to the request for requested

data as shown in col. 5, lines 4-34, col. 6, lines 19-25. And also in response to

applicant's argument, examiner submits that Barrett also teaches a re-issuing step of, in

a case where the received data is the predicted end time for generation of the

requested data, re-issuing the request for data loading to the server when the predicted

end time is reached (abstract, col. 6, lines 1-67, col. 9, lines 8-24). It would have been

obvious to one of ordinary skill in the Data Processing art at the time of the invention

was made that **Barrett** implicitly discloses a client requests for a web page/data, an

estimate of download time indicia is provided to client along with user-selectable link so

that the client know how long it will takes to down load a page and if client wishes to

continue request a page then click/or select (i.e. re-issuing request) a user-selectable

link equivalent to a re-issuing step disclosed in the applicant's specification. A person of

ordinary skill in the art would have recognized that **Barrett** performs the same function

in substantially the same way to reach substantially the same result.

9.   Therefore, the examiner asserts that cited prior art teaches or suggests

the subject matter broadly recited in independent claims 1, 4, 5, 8, 9, and 10. Claims 2-

3, 6-7 are also rejected at least by virtue of their dependency on independent claims

and by other reasons set forth in this office action [see rejection below].

10.   Applicants still have failed to identify specific claim limitations that would

define a patentable distinction over cited prior arts. Accordingly, rejections for claims 1-

10 are rejected below.

Claim Rejections - 35 USC §103

11.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for

all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed
> or described as set forth in section 102 of this title, if the differences between the
> subject matter sought to be patented and the prior art are such that the subject
> matter as a whole would have been obvious at the time the invention was made
> to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was
> made.

12.   Claims 1-2, 4-6, 8-9, and 10 are rejected under 35 U.S.C. § 103 (a) as

being unpatentable over **Barrett et al.** (hereinafter Barrett) U.S. Patent No. **5,908,467**.

13.   As to claim 1, **Barrett** teaches the invention substantially as claimed,

including a data processing method performed by a server for providing data to a

terminal via a network, the method comprising:

a reception step of receiving a request for data loading from the terminal

(abstract, col. 5, lines 4-10);

a completion discrimination step of discriminating, in response to the request for

data loading, whether a generation of requested data has completed or is in progress

(col. 5, lines 11-34, col. 6, lines 19-25);

a first transmission step of transmitting to the terminal the requested data if the

generation thereof has completed (abstract, col. 5, lines 4-34, col. 6, lines 47-57);

a prediction step of predicting an end time of the generation of the requested

data if the generation thereof is in progress (abstract, col. 3, lines 60-col. 4, lines 4, col.

5, lines 35-67); and

a second transmission step of transmitting the predicted end time and

information for requesting data loading again at the predicted end time to the terminal if

the generation of the requested data is in progress (abstract, col. 4,lines 5-12, col. 6,

lines 1-67, col. 7, lines 44-65, col. 9, lines 8-24 *–an estimate of download time indicia is*

provided to client along with user-selectable link so that the client know how long it will

takes to down load a page and if client wishes to continue request a page then click/or

select a user-selectable link).

It would have been obvious to one of ordinary skill in the Data Processing art at

the time of the invention was made that **Barrett** implicitly discloses a client requests for

a web page/data, an estimate of download time indicia is provided to client along with

user-selectable link so that the client know how long it will takes to down load a page

and if client wishes to continue request a page then click/or select (i.e. re-issuing

request) a user-selectable link equivalent to the feature of transmitting the predicted end

time and information for requesting data loading again at the predicted end time

disclosed in the applicant's specification. A person of ordinary skill in the art would have

recognized that **Barrett** performs the same function in substantially the same way to

reach substantially the same result.

14.   As to claim 2, **Barrett** teaches the invention substantially as claimed,

wherein said prediction step predicts the end time based on an amount of data to be

generated (col. 5, lines 64-67).

15.   As to claim 4, **Barrett** teaches the invention substantially as claimed,

including a data processing method performed by a terminal for receiving data from a

server via a network, the method comprising:

an issuing step of issuing a request for data loading to the server (abstract, col.

5, lines 4-10);

a reception step of receiving from the server in response to the request either

requested data or a predicted end time for generation of the requested data together

with information for re-issuing the request for data loading at the predicted end time (col.

5, lines 4-34, col. 6, lines 19-25);

a display step of displaying the requested data or the predicted end time received

from the server (abstract, col. 3, lines 60-col. 4, lines 4, col. 5, lines 35-67, col. 6, lines

1-57);

a data discriminating step of discriminating whether received data includes the

information for re-issuing the request for data loading at the predicted end time (col. 5,

lines 11-34, col. 6, lines 19-25); and

a re-issuing step of, in a case where the received data includes the information

for re-issuing the request for data loading at the predicted end time, re-issuing the

request for data loading to the server when the predicted end time is reached (abstract,

col. 6, lines 1-67, col. 9, lines 8-24 –*an estimate of download time indicia is provided to*

client along with user-selectable link so that the client know how long it will takes to

down load a page and if client wishes to continue request a page then click/or select a

user-selectable link).

It would have been obvious to one of ordinary skill in the Data Processing art at

the time of the invention was made that **Barrett** implicitly discloses a client requests for

a web page/data, an estimate of download time indicia is provided to client along with

user-selectable link so that the client know how long it will takes to down load a page

and if client wishes to continue request a page then click/or select (i.e. re-issuing

request) a user-selectable link equivalent to a re-issuing step disclosed in the

applicant's specification. A person of ordinary skill in the art would have recognized that

Barrett performs the same function in substantially the same way to reach substantially

the same result.

16.   As to claim 5, **Barrett** teaches the invention substantially as claimed,

including a data processing apparatus for providing data to a terminal from a server via

a network, the apparatus comprising:

reception means for receiving a request for data loading from the terminal

(abstract, col. 5, lines 4-10);

completion discrimination means for discriminating, in response to the request for

data loading, whether a generation of requested data has completed or is in progress

(col. 5, lines 11-34, col. 6, lines 19-25);

first transmission means for transmitting to the terminal the requested data if the

generation thereof has completed (abstract, col. 5, lines 4-34, col. 6, lines 47-57);

a prediction means for predicting an end time of the generation of the requested

data if the generation thereof is in progress (abstract, col. 3, lines 60-col. 4, lines 4, col.

5, lines 35-67); and

second transmission means for transmitting the predicted end time and

information for requesting data loading again at the predicted end time to the terminal if

the generation of the requested data is in progress (abstract, col. 4,lines 5-12, col. 6,

lines 1-67, col. 7, lines 44-65, col. 9, lines 8-24 –*an estimate of download time indicia is*

provided to client along with user-selectable link so that the client know how long it will

takes to down load a page and if client wishes to continue request a page then click/or

select a user-selectable link).

It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention was made that **Barrett** implicitly discloses a client requests for a web page/data, an estimate of download time indicia is provided to client along with user-selectable link so that the client know how long it will takes to down load a page and if client wishes to continue request a page then click/or select (i.e. re-issuing request) a user-selectable link equivalent to the feature of transmitting the predicted end time and information for requesting data loading again at the predicted end time disclosed in the applicant's specification. A person of ordinary skill in the art would have recognized that **Barrett** performs the same function in substantially the same way to reach substantially the same result.

17.   Claim 6 has similar limitations as claim 2; therefore, claim 6 is rejected under the same rationale.

18.   As to claim 8, **Barrett** teaches the invention substantially as claimed, including a data processing apparatus for receiving data at a terminal from a server via a network, the apparatus comprising:

issuing means for issuing a request for data loading to the server (abstract, col. 5, lines 4-10);

a reception means of receiving from the server in response to the request either requested data or a predicted end time for generation of the requested data together

with information for re-issuing the request to data loading at the predicted end time (col.

5, lines 4-34, col. 6, lines 19-25)

display means for displaying the requested data or the predicted end time

received from the server (abstract, col. 3, lines 60-col. 4, lines 4, col. 5, lines 35-67, col.

6, lines 1-57);

data discriminating means of discriminating whether the received data includes

the information for re-issuing the request for data loading at the predicted end time (col.

5, lines 11-34, col. 6, lines 19-25); and

control means for, in a case where the received data includes the information for

re-issuing the request for data loading at the predicted end time, controlling said issuing

means as to re-issue the request for data loading to the server when the predicted end

time is reached (abstract, col. 6, lines 1-67, col. 9, lines 8-24 –*an estimate of download

time indicia is provided to client along with user-selectable link so that the client know

how long it will takes to down load a page and if client wishes to continue request a

page then click/or select a user-selectable link*).

It would have been obvious to one of ordinary skill in the Data Processing art at

the time of the invention was made that **Barrett** implicitly discloses a client requests for

a web page/data, an estimate of download time indicia is provided to client along with

user-selectable link so that the client know how long it takes to down load a page and if

client wishes to continue request a page then click/or select (i.e. re-issuing request) a

user-selectable link equivalent to a re-issuing step disclosed in the applicant's

specification. A person of ordinary skill in the art would have recognized that **Barrett**

performs the same function in substantially the same way to reach substantially the

same result.

19.   As to claim 9, **Barrett** teaches the invention substantially as claimed,

including a computer-readable storage medium storing a data processing program for

controlling a server to provide data from the server to a terminal via a network, the

program comprising codes for causing the server to perform:

a reception step of receiving a request for data loading from a terminal (abstract,

col. 5, lines 4-10);

a completion discrimination step of discriminating, in response to the request for

data loading, whether a generation of requested data has completed or is in progress

(col. 5, lines 11-34, col. 6, lines 19-25);

a first transmission step of transmitting to the terminal the requested data if the

generation thereof has completed (abstract, col. 5, lines 4-34, col. 6, lines 47-57);

a prediction step of predicting an end time of the generation of the requested

data if the generation thereof is in progress (abstract, col. 3, lines 60-col. 4, lines 4, col.

5, lines 35-67); and

a second transmission step of transmitting the predicted end time and

information for requesting data loading again at the predicted end time to the terminal if

the generation of the requested data is in progress (abstract, col. 4,lines 5-12, col. 6,

lines 1-67, col. 7, lines 44-65, col. 9, lines 8-24 –*an estimate of download time indicia is*

provided to client along with user-selectable link so that the client know how long it will

takes to down load a page and if client wishes to continue request a page then click/or

select a user-selectable link).

It would have been obvious to one of ordinary skill in the Data Processing art at

the time of the invention was made that **Barrett** implicitly discloses a client requests for

a web page/data, an estimate of download time indicia is provided to client along with

user-selectable link so that the client know how long it will takes to down load a page

and if client wishes to continue request a page then click/or select (i.e. re-issuing

request) a user-selectable link equivalent to the feature of transmitting the predicted end

time and information for requesting data loading again at the predicted end time

disclosed in the applicant's specification. A person of ordinary skill in the art would have

recognized that **Barrett** performs the same function in substantially the same way to

reach substantially the same result.

20.   As to claim 10, **Barrett** teaches the invention substantially as claimed,

including a computer-readable storage medium storing a data processing program for

controlling a computer to receive data from a server via a network, the program

comprising codes for causing the terminal computer to perform:

an issuing step of issuing a request for data loading to the server (abstract, col.

5, lines 4-10);

a reception step of receiving from the server in response to the request either

requested data or a predicted end time for generation of the requested data together

with information for re-issuing the request for data loading at the predicted end time (col. 5, lines 4-34, col. 6, lines 19-25);

a display step of displaying the requested data or the predicted end time received from the server (abstract, col. 3, lines 60-col. 4, lines 4, col. 5, lines 35-67, col. 6, lines 1-57);

data discriminating step of discriminating whether the received data includes the information for re-issuing the request for data loading at the predicted end time (col. 5, lines 11-34, col. 6, lines 19-25); and

a re-issuing step of, in a case where the received data includes the information for re-issuing the request for data loading at the predicted end time, re-issuing the request for the data loading to the server when the predicted end time is reached (abstract, col. 6, lines 1-67, col. 9, lines 8-24 –*an estimate of download time indicia is provided to client along with user-selectable link so that the client know how long it will takes to down load a page and if client wishes to continue request a page then click/or select a user-selectable link*).

It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention was made that **Barrett** implicitly discloses a client requests for a web page/data, an estimate of download time indicia is provided to client along with user-selectable link so that the client know how long it takes to down load a page and if client wishes to continue request a page then click/or select (i.e. re-issuing request) a user-selectable link equivalent to a re-issuing step disclosed in the applicant's specification. A person of ordinary skill in the art would have recognized that **Barrett**

performs the same function in substantially the same way to reach substantially the

same result.

21.   Claims 3 and 7 are rejected under 35 U.S.C. §103 (a) as being

unpatentable over **Barrett et al.** (hereinafter Barrett) U.S. Patent No. **5,908,467**, in view

of **Sugiarto et al.** (hereinafter Sugiarto) U.S. Patent No. **6,278,449**.

22.   As to claim 3, **Barrett** does not explicitly teaches the invention

substantially as claimed, wherein the request data is generated by execution of a

predetermined process, and said prediction step predicts the end time based on the

time required for executing said predetermined process.

However, **Sugiarto** teaches wherein said data are result of execution of a

predetermined process, and said prediction step predicts the end time based on the

time required for executing said predetermined process (figures 5-6).

It would have been obvious to one of ordinary skill in the Data Processing art at

the time of the invention to combine the teachings of **Barrett and Sugiarto** to have the

step of predicting the end time based in the time required for executing the

predetermined process because it would have an efficient data processing system that

can provide the predicting downloading time prior transmitting data to terminal device.

23.   Claim 7 has similar limitations as claim 3; therefore, claim 7 is rejected

under the same rationale.

Conclusion

24.   The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure:

a)   Arias (USPN 5,724,514) discloses system and method for controlling the

transfer of data objects over a communications link.

b)   Kunz (USPN 6,223,221) discloses system and method for calculating the

transfer rate across a communication medium using a downloaded test program and

transferring data accordingly.

c)   Ginzburg et al (USPN 6,078,919) discloses system and method for

delivery of data over a network based on determination of network parameters.

d)   Kalra et al. (USPN 5,953,506) discloses system and method for providing

a scalable media delivery.

e)   Hice (USPN 6,370,231) discloses system and method for calculating the

estimated time of arrival of a service technician.

f)   Merriam (USPN 6,587,878) discloses system and method for measuring

performance in network system.

g)   Qin et al. (USPN 6,393,480) discloses system and method for application

response time prediction provides an estimate of an application performance in a

second network given performance characteristics of the application in a first network.
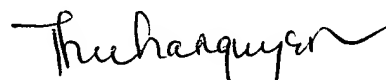
h)   Emaru at al. (USPN 6,807,575) discloses system and method for

performance monitoring in a distributed processing system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thu Ha Nguyen, whose telephone number is (571) 272-3989. The examiner can normally be reached Monday through Friday from 8:00 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Najjar Saleh can be reached at (571) 272-4006.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Thu Ha Nguyen

March 20, 2006